



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, DC 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087737,904	11/20/96	GRIFFITH	IMI040CP3

LAHIVE & COCKFIELD  
28 STATE STREET  
BOSTON, MA 02109

HM11/0817

EXAMINER  
SCHWADRON, R

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 08/17/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**08/737,904**

Applicant(s)  
**Griffith et al.**

Examiner  
**Ron Schwadron, Ph.D.**

Group Art Unit  
**1644**



- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1-48 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-48 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The prior art discloses the invention of claim 9 (eg. see WO 93/04174, claims 26, 34-57). The specification discloses that *Lol p V* is also known as *Lol p Ib* (see page 1). Thus, this application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1-6,9-15,17,18,21-23,26-36,38-43 are drawn to *Lol p V* peptides and peptide compositions, classified in Class 530, subclass 326 and Class 424, subclass 275.1.

- II. Claims 7,8,19,20 are drawn to nucleic acids encoding *Lol p V* peptides and vectors and host cells containing said nucleic acids, classified in Class 536, subclass 23.6 and Class 435, subclass 320.1 and 252.3.

- III. Claim 16 is drawn to a monoclonal antibody, classified in Class 530, subclass 388.5.

- IV. Claims 24 and 25 are drawn to a method of detection, classified in Class 435, subclass 7.1.

- V. Claim 37 is drawn to method of making a medicament, classified in Class 435, subclass 69.1.

- VI. Claims 44-47 are drawn to a *Dac g I* encoding nucleic acids and vectors and host cells containing said nucleic acids, classified in Class 935, subclasses 6, 21 and 66.

- VII. Claim 48 is drawn to *Dac g I* protein, classified in Class 530, subclass 370.

2. The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons.

The prior art discloses the invention of claim 9 (eg. see WO 93/04174, claims 26,

allergen, *Dac g I*. Therefore they are novel and unobvious in view of each other and are patentably distinct.

8. Inventions VI and VII are different products. DNA and proteins are distinct because they are structurally and functionally distinct and have different uses. The DNA can be used in nucleic acid hybridization assays while the peptides can be used in immunoassays. Therefore they are novel and unobvious in view of each other and are patentably distinct.

9. Inventions III/VI/VII differ from the methods of claims IV and V in that the antibody or *Dac g I* peptide and nucleic acids are not used in the methods of inventions IV and V. Therefore they are novel and unobvious in view of each other and are patentably distinct.

10. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-VII is not required for any other group from Groups I-VII and Groups I-VII have acquired a separate status in the art as shown by their different classification and divergent subject matter, restriction for examination purposes as indicated is proper.

11. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

12. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

13. Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers should be faxed to Group 180 at (703) 305-3014.

14. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Tuesday through Friday from 8:30 to 6:00. The examiner can also be reached on alternative Mondays. A message may be left on the examiners voice mail service. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 180 receptionist whose telephone number is (703) 308-0196.



RONALD B. SCHWADRON  
PRIMARY EXAMINER  
GROUP 1800-1644

Ron Schwadron, Ph.D.  
Primary Examiner  
Art Unit 1644  
August 14, 1998



Creation date: 10-09-2003  
Indexing Officer: TBUI1 - THU-TRANG BUI  
Team: OIPEBackFileIndexing  
Dossier: 08737904

Legal Date: 01-25-1999

No.	Doccode	Number of pages
1	A...	2
2	LET.	1
3	XT/	1

Total number of pages: 4

Remarks:

Order of re-scan issued on .....